Supreme Court, U.S.
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No. 91-1079

In The

Supreme Court of the United States

October Term, 1991

STEPHEN R. SELINGER,

Petitioner,

v.

CITY OF REDLANDS,

Respondent.

Petition For Writ Of Certiorari To The Court Of Appeal, Fourth District, Division Two, State Of California

REPLY BRIEF TO BRIEF IN OPPOSITION

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REPLY BRIEF

I. Procedural Issues

The City misrepresents the facts to the Court when it claims that the issue of "due process prohibitions against vague economic ordinances" (Response p. 12) was never raised at the Court of Appeal. The case of *Chalmers v. City of Los Angeles*, 762 F. 2d 753 (1985) was cited to the Appeal Court in oral argument and extensively discussed. This case deals almost exclusively with constitutional prohibitions against vague economic regulations. A copy of the transcript can be produced to document this.

With respect to the property rights issue, the City claims that this issue was only expressed in terms of state law and that no mention was made of whether the City's actions violated the United States Constitution (Response p. 13). However, Appellant's Opening Brief (p. 37) specifically cites *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986 (1984) for the proposition that property rights are created by state law but protected by the United States Constitution. This is the case and principle cited repeatedly in the Petition.

II. Conclusion

The City gives no substantive reasons[1] why the Petition should not be granted – other than repeating the Appeal Court's unargued and unsupportable assertion that a city is not precluded from arbitrarily reversing its

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[1] The City also raises no objections to any specific facts of the case.

general plan consistency determinations (Response p. 16).[2] Petitioner hopes these additional facts show that its procedural objections are equally groundless.

Respectfully submitted,

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[2] The City also misrepresents the Petition in claiming (Response p. 15) that it "cavalierly brushes over the fact that the Environmental Impact Report ("EIR") itself identified unavoidable significant adverse impacts in the categories of traffic, wastewater disposal, and cumulative impacts." In fact, Petitioner specifically referenced this section but, more importantly, pointed out that the very next sentence, and specific sections of the EIR, contain the mitigation measures which avoid these "unavoidable" impacts (Petition pp. 6, 7). These statements of the specific mitigation measures totally contradict the preordained, conclusory remark of "unavoidable" impacts.